

FILED

Nov 17, 2022

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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SEALED

6 Attorneys for the United States

7 IN THE UNITED STATES DISTRICT COURT

8 EASTERN DISTRICT OF CALIFORNIA

9
10 UNITED STATES OF AMERICA; THE
STATE OF CALIFORNIA, *ex rel.* HECTOR
11 MIRANDA, M.D. AND ERIN CRAIG,

12 Plaintiffs,

13 v.

14 ROBERT GONZALEZ SALAZAR, MD,

15 Defendant.

CASE NO. 1:20-CV-1257 AWI SKO

**THE UNITED STATES AND THE STATE OF
CALIFORNIA'S NOTICE OF ELECTION TO
DECLINE INTERVENTION**

FILED UNDER SEAL

1 Pursuant to the False Claims Act, 31 U.S.C. Section 3730(b)(4)(B) and the California False
2 Claims Act, California Government Code Section 12652, the United States and the Attorney General on
3 behalf of the State of California notify the Court of their decision not to intervene in this action.

4 Although the United States and the State of California decline to intervene, we respectfully refer
5 the Court to 31 U.S.C. § 3730(b)(1), which allows the relators to maintain the action in the name of the
6 United States; providing, however, that the “action may be dismissed only if the court and the Attorney
7 General give written consent to the dismissal and their reasons for consenting.” *Id.* The United States
8 Court of Appeals for the Ninth Circuit has held that, notwithstanding this language, the United States
9 has the right only to a hearing when it objects to a settlement or dismissal of the action. *U.S. ex rel.*
10 *Green v. Northrop Corp.*, 59 F.3d 953, 959 (9th Cir. 1995); *U.S. ex rel. Killingsworth v. Northrop Corp.*,
11 25 F.3d 715, 723-25 (9th Cir. 1994). Therefore, the United States and the State of California request
12 that, should either the relators or the defendant propose that this action be dismissed, settled, or
13 otherwise discontinued, this Court provide the United States and the Attorney General on behalf of the
14 State of California with notice and an opportunity to be heard before ruling or granting its approval.

15 Furthermore, pursuant to 31 U.S.C. Section 3730(c)(3), the United States and the State of
16 California request that all pleadings filed in this action be served upon the United States and the
17 Attorney General on behalf of the State of California; the United States and the State of California also
18 request that orders issued by the Court be sent to the Government’s counsel. The United States and the
19 State of California reserve their right to order any deposition transcripts, to intervene in this action for
20 good cause at a later date, and to seek the dismissal of the relators’ action or claim. The United States
21 and the Attorney General on behalf of the State of California also request that they be served with all
22 notices of appeal.

23 Finally, the Government requests that the relators’ Complaint, this Notice, and the attached
24 proposed Order be unsealed. The United States and the State of California request that all other papers
25 on file in this action remain under seal because in discussing the content and extent of the United States
26 and the State of California’s investigation, such papers are provided by law to the Court alone for the
27 sole purpose of evaluating whether the seal and time for making an election to intervene should be
28 extended.

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2 A proposed order accompanies this notice.

3 Dated: November 17, 2022

PHILLIP A. TALBERT
United States Attorney

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6 By: /s/ Emilia P. E. Morris
EMILIA P. E. MORRIS
Assistant United States Attorney

1 **CERTIFICATE OF SERVICE BY EMAIL**

2 The undersigned hereby certifies that she is an employee working for the Office of the United
3 States Attorney for the Eastern District of California and is a person of such age and discretion to be
4 competent to serve papers;

5 That on November 17, 2022, she served a copy of:

6 **UNITED STATES AND THE STATE OF CALIFORNIA'S**
7 **NOTICE OF ELECTION TO DECLINE INTERVENTION**

8 via email only to the person(s) hereinafter named, at the place(s) and address(es) stated below, which
9 is/are the last known email address(es).

10 **Addressee(s):**

11 Phillip Benson
12 philbenson@warrenbensonlaw.com

13 Jonathan Kroner
14 jk@FloridaFalseClaim.com

15 Jennifer Gregory
16 jennifer.gregory@doj.ca.gov

17 /s/ Bonnie L'Argent
18 Bonnie L'Argent